## REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 6, and 7 are currently pending. Claims 9, 15, and 16 have been cancelled without prejudice; and Claims 1, 6, and 7 have been amended by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 1, 6, 7, 9, 15, and 16 were rejected under 35 U.S.C. § 112, second paragraph; Claims 7 and 16 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter; Claims 1, 6, 7, 9, 15, and 16 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,671,323 to Tahara et al. (hereinafter "the '323 patent").

Applicants respectfully submit that the rejection of Claims 9, 15, and 16 are rendered moot by the present cancellation of those claims.

Applicants respectfully submit that the rejections of the claims under 35 U.S.C. § 112, second paragraph, are rendered moot by the present amendment to the claims. The claims have been amended to recite a minimum decoder buffer size. Accordingly, Applicants respectfully submit that the rejections are rendered moot.

Applicants respectfully submit that the rejections of Claim 7 under 35 U.S.C. § 101 is rendered moot by the present amendment to that claim. Claim 7 has been amended to recite a computer readable medium embedded with a program, rather than storing a program, as suggested in the outstanding Office Action. Accordingly, Applicants respectfully submit that Claim 7 is directed to statutory subject matter.

Amended Claim 1 is directed to an encoding device, comprising:

(1) generating means for generating a header to which reference is made as needed during decoding; (2) encoding means for encoding the header generated by the generating means and an input image signal, respectively; and (3) outputting means for multiplexing the header and the image signal encoded by the encoding means and outputting a bitstream, wherein the generating means generates the header containing buffer characteristic information about buffering during decoding of the bitstream, and the buffer characteristic information contains all of a minimum bit rate $R_{min}$, a minimum decoder buffer size $B_{min}$, and a minimum delay amount $F_{min}$, which are decodable during decoding of the bitstream, wherein $R_{min}$, $B_{min}$, and $F_{min}$ are used to generate a characteristic curve that is used to determine whether the bitstream is decodable at a decoding device. Claim 1 has been amended to clarify that $R_{min}$, $B_{min}$, and $F_{min}$ are used to generate a characteristic curve that is used to determine whether the bitstream is decodable at a decoding device. The changes to Claim 1 are supported by the originally filed specification and do not add new matter. [1]

Applicants respectfully submit that the rejection of Claim 1 is rendered moot by the present amendment to that claim.

The '323 patent is directed to a encoding apparatus for encoding input video data including means for extracting ancillary data that are added in the blank intervals of the input video data from the input video data; means for encoding the input video data to generate encoded streams; and means for controlling the encoding means to insert the ancillary data into a picture layer of the encoded streams.

In particular, as noted in the outstanding Office Action, the '323 patent discloses a sequence header in Figure 11, and a picture header in Figure 23. In particular, Figure 11 in the '323 patent discloses that the sequence header includes the fields frame__rate__code, bit__rate__value, and vbv__buffer size__value . However, Applicants respectfully submit

[1] See, e.g., the decoding possibility determining unit 92 shown in Figure 7 and page 29, line 13 through page 30, line 8 of the specification.

that these fields in the sequence header disclosed in '323 Figure 11 are not a minimum bit rate, a minimum decoder buffer size, or a minimum delay amount, as required by Claim 1. However, to further the prosecution of this application, Applicants have amended Claim 1 to clarify that $R_{min}$, $B_{min}$, and $F_{min}$ are used to generate a characteristic curve that is used to determine whether the bitstream is decodable at a decoding device. Applicants respectfully submit that the '323 patent is silent regarding such a limitation, but only discloses various fields in a sequence header. In a non-limiting example, Applicants refer the Examiner to the characteristic curve shown, for example, in Figures 4 and 9. In particular, Applicants note that, in this example, a point, which is determined by the bit rate and the buffer size at the decoder, that lies above the generated characteristic curve indicates that the input bit stream can be decoded by the decoder.

Accordingly, for the reasons stated above, Applicants respectfully submit that amended Claim 1 patentably defines over the '323 patent.

Independent Claims 6 and 7 recite limitations analogous to the limitations recited in Claim 1, and have been amended in a manner analogous to the amendment to Claim 1. Accordingly, for the reasons stated above, Applicant respectfully submits that the rejections of Claims 6 and 7 are rendered moot by the present amendment to those claims.

Thus, it is respectfully submitted that independent Claims 1, 6, and 7 patentably define over the '323 patent.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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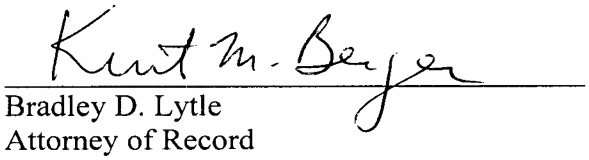

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